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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,919	08/25/2006	Randall E. Tagawa	Tagawa Tissue USNP	4182
33549 7590 04/03/2009 SANTANGELO LAW OFFICES, P.C. 125 SOUTH HOWES, THIRD FLOOR FORT COLLINS, CO 80521				
EXAMINER				
BELL, KENT L				
ART UNIT		PAPER NUMBER		
1661				
NOTIFICATION DATE		DELIVERY MODE		
04/03/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/590,919

Applicant(s)

TAGAWA ET AL.

Examiner

Kent L. Bell

Art Unit

1661

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on application filed August 25, 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-167 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 25, 33-43, 60-62, 64, 65, 67-70, 72-76, 78, 80, 81, 123-129, 139-141, 143, 144, 146-154, 156, 158, and 159 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-813)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Disposition of Claims: Claims **withdrawn** from consideration are 1-24,26-32,44-59,63,66,71,77,79,82-122,130-138,142,145,155,157 and 160-167.

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 25, drawn to a method of tissue culturing processing comprising placing at least on explant in at least one pocket on a surface of a porous framework; adding a first nourishment solution to said porous framework; supplying said first nourishment solution to said explant; growing at least an initial growth of said explant on said porous framework; balancing retentive exchange capacities with removal exchange capacities of said first nourishment solution in said porous framework; affirmatively removing said first nourishment solution from said porous framework with said second nourishment solution; and secondarily growing said at least initially grown explants..

Group II, claim(s) 33-43, 60-62, 64, 65, 67-70, 72-76, 78, 80, and 81, drawn to a method of tissue culturing processing comprising the steps of: determining at least one transplant growth criterion appropriate to a given plant species; placing a tissue culture growth media and a

plurality of explants in a first environment, extruding said initially grown explants and at least some of said tissue culture media from said first environment, and inserting said initially grown explants and at least some of said tissue culture media from said first environment in a second environment.

Group III, claim(s) 123-129, 139-141, 143, 144, 146-154, 156, 158, and 159, drawn to a sustentacular tissue culturing device.

2. The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The technical feature linking groups I-III is transferring an explant from one medium or environment to another. However in the prior art (US 2002/0189514) Onedera et al teach a method for germinating and transplanting rice seedlings that utilizes a device in which rice seeds are germinated on a porous sheet, and subsequently are transplanted into the soil (see entire document; abstract; and left column on page 1). Also in the prior art (US Patent No. 5,843,782) Dobres et al teach propagation of rose plants utilizing explants. It would have been obvious to one of ordinary skill in the art to adapt the device and method taught by Onedera et al to accommodate explants (such as the explants taught by Dobres et al) instead of rice seeds, and one would have been motivated to do so, because it would have automated tasks that are very labor intensive. Therefore, the technical feature linking the inventions of groups I-III does not

constitute a special technical feature as defined by PCT Rule 13.2 as it does not define a contribution over the prior art because it lacks an inventive step over the prior art.

Accordingly, Groups I-III are not so linked by the same or a corresponding special technical feature as to form a single general inventive concept.

3. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Future Correspondence

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kent L. Bell whose telephone number is (571) 272-0973. The Examiner can normally be reached Monday through Thursday from 6:00 am to 4:30 pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Anne Marie Grunberg, can be reached at (571) 272-0975.

The fax phone number for the group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1600.

K. L. Bell

/CKW/

/Kent L. Bell/

Primary Examiner, Art Unit 1661